

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1743.01
COMPLAINT INVESTIGATOR: Steve Starbuck
DATE OF COMPLAINT: May 1, 2001
DATE OF REPORT: May 30, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: October 2, 2001

COMPLAINT ISSUES:

Whether the Monroe County Community School Corporation violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically, failing to provide physical therapy services as identified.

During the course of the investigation, additional issues were identified, which are:

511 IAC 7-27-4(c) with regard to the school's alleged failure to convene a case conference committee (CCC) meeting to develop, review, or revise the IEP for a student who is eligible for special education and related services.

511 IAC 7-28-1(f) with regard to the school's alleged failure to follow appropriate procedures for providing occupational therapy services to students with disabilities.

511 IAC 7-18-2(a) with regard to the school's alleged failure to provide students with disabilities a free appropriate public education.

FINDINGS OF FACT:

1. The student is nine years old, attends the third grade, and has been determined eligible for special education due to a mild mental disability and a communication disorder.
2. The parent asserts the student was to receive physical therapy for thirty minutes one time per week, and that the school has not been providing this service. Page four of the Case Conference Summary Report (Report) dated May 15, 2000, indicates the student is to receive physical therapy for a minimum of 30 minutes each month. The Report also reflects that the student will have foot alignment surgery on July 26, 2000, and will be in a full body cast for a minimum of four weeks. It is noted in the Report that the student will have to be in a wheelchair when he returns to school in the fall. Both of the student's parents signed the IEP on May 15, 2000, indicating their approval with the recommendations made by the CCC and giving consent for the IEP to be implemented.
3. Although the student returned to school at the beginning of the school year, the director reports due to the student's surgery the physical therapist could not provide direct services to the student without having a physician's order authorizing treatment. The director states the student's parents were given a copy of the school's Occupational/Physical Therapy Requisition Form for their

physician to complete at the May 15th conference. The physical therapist's notes reflect that a copy of the Occupational/Physical Therapy Form was sent to the student's parents on August 30, 2000. The student's physician signed an order on November 14, 2000, giving authorization for the student to be evaluated and to receive treatment in a school setting. The school did not receive a copy of the physician's order until December 8, 2000. The parents acknowledge there was a delay in getting the physician's order to the school. Since December 8th, the student has only received two sixty minute physical therapy sessions. These sessions occurred on January 28 and February 12, 2001. According to the physical therapist's notes, the director informed her on February 28, 2001, to discontinue direct physical therapy services to the student and to only provide consultation. The director states he does not recall the specifics of the conversation recorded in the physical therapist's log. The parent states she never asked school personnel to discontinue direct physical therapy services for her child, but had expressed concerns that the physical therapist was not implementing the IEP. Other than five observations conducted by the physical therapist during the time the student attended physical education class, the student has received no other physical therapy services since February 12, 2001.

4. The director states school policy requires parents to have the Occupational/Physical Therapy Form completed by a physician if a CCC determines a student needs occupational therapy services. The director reports if there is a charge to have the Occupational/Physical Therapy Form completed for the school to initiate occupational therapy services, the parents must bear the expense. According to the director, some physicians have charged parents to have the Occupational/Physical Therapy Form completed.

CONCLUSIONS:

1. Finding of Fact #2 reflects the school failed to implement the student's IEP as written, specifically, failing to provide physical therapy services in December 2000, and March, April, and May 2001, as identified in the IEP dated May 15, 2000. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #3 indicates the school failed to convene a CCC meeting prior to changing the type of physical therapy service the student was to receive. Therefore, a violation of 511 IAC 7-27-4(c) is found.
3. Finding of Fact #4 reflects that the school requires the Occupational/Physical Therapy Form to be completed at parent expense before the school will initiate occupational therapy services. Although a physician's order is required before the school can provide physical therapy services, an order is not required before the school can provide occupational therapy services. Further, the school is responsible for any expense associated with obtaining a physician's order for physical therapy. Therefore, violations of 511 IAC 7-28-1(f) and 511 IAC 7-18-2(a) are found.

The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Monroe County Community School Corporation shall:

1. Inservice all appropriate school personnel as to the requirements specified in 511 IAC 7-18-2(a), 511 IAC 7-27-4(c), 511 IAC 7-27-7(a), and 511 IAC 7-28-1(f). Submit documentation to the Division no later than September 21, 2001, that all inservice training has been completed. The documentation should include a list or an agenda of all issues discussed, any handouts that were

distributed, and a list of attendees by name and title.

2. Revise the special education planning district's policies and procedures to ensure that a physician's order is not required before the school provides occupational therapy services to students and to include that the school is responsible for the parent's expense of obtaining a physician's order for physical therapy. Send a memorandum to all appropriate school personnel along with a copy of the new policies and procedures advising staff of the new procedure for initiating occupational therapy and physical therapy services. Submit to the Division no later than September 21, 2001, a copy of the new policies and procedures and a copy of the memorandum sent to staff.
3. Submit an assurance statement to the Division no later than September 21, 2001, ensuring that all IEPs developed for the student shall be implemented as written. The assurance statement shall be signed by the director.
4. Convene a CCC meeting no later than September 14, 2001, to determine the need for compensatory physical therapy services. Submit to the Division no later than September 21, 2001, a copy of the Case Conference Summary Report and any revised IEP.

DATE REPORT COMPLETED: May 30, 2001